

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	
	:	
vs.	:	Case No.: 1:07 CR 93
	:	
JONATHAN MCKINNEY	:	
Defendant	:	
<hr/>	:	

ORDER

AND NOW, this day of , 2008, upon Motion of the Defendant, Jonathan McKinney, it is hereby ORDERED and DECREED that sentencing in this matter is continued until , 2008.

By The Court:

Sue L. Robinson, J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	
	:	
vs.	:	Case No.: 1:07 CR 93
	:	
JONATHAN MCKINNEY	:	
Defendant	:	

DEFENDANT’S MOTION TO CONTINUE SENTENCING

1. The defendant, Jonathan McKinney, has pleaded guilty to Possession of Child Pornography on April 29, 2006.
2. Sentencing is presently scheduled to take place at 4:30 pm on March 6, 2008.
3. There exists a dispute as to whether, on April 29, 2006, Mr. McKinney possessed as few as four images or as many as one-hundred-nine.
4. These numbers of images are critically important because they can result in a two (2) point difference in the applicable guideline range.
5. Discovery is necessary for the Defense to prepare for the evidentiary hearing that will be necessary if the dispute as to the number of images continues.
6. This discovery, and the statutory inspections to which the Defendant is entitled under 18 U.S.C. 3509 (m) (2)(B) cannot take place before sentencing.
7. Contemporaneous with this motion the Defense has filed a motion to compel discovery.

8. This request could not be made sooner as it is only in the past two weeks that the Defense has become aware that the Government is claiming so many images were possessed on the date in question.
9. Attempts to resolve this disagreement have been unsuccessful.
10. This is the first request for a continuance of the sentencing.
11. Rule 32 (b) (2) allows this Court to continue the sentencing.
12. The interests of justice require that the sentencing be continued to allow the Defendant to prepare for the evidentiary hearing that may be necessary.

WHEREFORE, the defendant, Jonathan McKinney, respectfully requests that the Court continue the sentencing.

Respectfully submitted,

PERLSTEIN LAW

By: s/Paul M. Perlstein, Esq.

Paul M. Perlstein, Esq.

Attorney for Jonathan McKinney

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	
	:	
vs.	:	Case No.: 1:07 CR 93
	:	
JONATHAN MCKINNEY	:	
Defendant	:	
<hr/>	:	

MEMORANDUM OF LAW

The Defendant, Jonathan McKinney, incorporates herein in full his motion.

Respectfully submitted,

PERLSTEIN LAW

By: s/Paul M. Perlstein, Esq.

Paul M. Perlstein, Esq.

Attorney for Jonathan McKinney